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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TOTAL REAL ESTATE GROUP, LLC, an
Oregon limited liability company,

Plaintiff,

v.

STEVE STRODE, in his official capacity as
the Oregon Real Estate Commissioner;
ELLEN ROSENBLUM, in her official
capacity as Attorney General for the State of
Oregon's Department of Justice

Defendant.

Case No. 3:21-cv-01677-HZ

PROPOSED CONSENT DECREE

BACKGROUND

1. The Plaintiff, Total Real Estate Group, LLC (“Plaintiff”), an Oregon limited liability company, filed a complaint against Defendant Steve Strobe (“Defendant”) in his official capacity as the Oregon Real Estate Commissioner. The Complaint alleges that Oregon Revised Statutes section 696.805(7), which requires “a seller’s agent” to “reject any communication other than customary documents in a real estate transaction, including photographs, provided by a buyer,” is facially unconstitutional under the First Amendment to the United States Constitution and seeks to enjoin Defendant from enforcing section 696.805(7).

2. On March 3, 2022, this Court granted Plaintiff’s request for a preliminary injunction, ruling that Plaintiff was likely to succeed on the merits of its challenge.

3. This Consent Decree is intended to constitute a complete and final settlement of Plaintiff’s claims. This Consent Decree is in the public interest and entry of this Consent Decree as an Order of the Court is the most appropriate means of resolving Plaintiff’s claims.

CONSENT DECREE

THEREFORE, without further adjudication of any issue of fact or law, and upon consent of the parties hereto, the Parties hereby agree as follows:

1. Oregon Revised Statutes section 696.805(7), which requires “a seller’s agent” to “reject any communication other than customary documents in a real estate transaction, including photographs, provided by a buyer,” violates the First Amendment to the United States Constitution.

2. Oregon Real Estate Commissioner Steve Strobe and his successors shall not enforce Oregon Revised Statute section 696.805(7).

3. The Oregon Real Estate Commissioner must provide notice to the public on the Oregon Real Estate Agency's website and in the next edition of the Oregon Real Estate News-Journal of the consent decree entered in this case and that the Agency will not enforce Oregon Revised Statutes section 696.805(7), what is commonly known as the "love letters" bill. Notice in substantially similar form to the Agency's public notice of the Court's preliminary injunction order complies with this requirement:

US DISTRICT COURT STOPS ENFORCEMENT OF 'LOVE LETTER LAW'

In 2021, the Oregon legislature enacted HB 2550, known as the "love letter" law. On March 3, 2022, the U.S. District Court for the District of Oregon issued a preliminary injunction enjoining enforcement of the law. On May __, 2022, the Court approved a consent decree which permanently prohibits enforcement of the law. In accord with the terms of the consent decree, the Oregon Real Estate Agency will not enforce HB 2550, codified at ORS 696.805(7).

The Commissioner must maintain this notice on its website for one year from the entry of this judgment, after which time the Agency is no longer required to post the notice on its website.

4. Defendant agrees to pay Plaintiff attorney's fees of \$56,890.94 and costs of \$7,178.21. Defendant's payment of this award satisfies the costs and attorney's fees in this case, and neither Plaintiff nor its counsel may seek or recover any additional amounts for costs or attorney's fees related to this litigation.

5. The Parties will jointly submit this Proposed Consent Decree for the Court's approval and it will become an Order of the Court on the date it is approved.

DATED May 6, 2022.

FOR THE PLAINTIFF:

Total Real Estate Group, LLC

By: s/Christopher Ambrose
Christopher Ambrose
Its: General Counsel

Approved as to form:

s/Daniel M. Ortner
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Attorneys for Plaintiff
* Pro Hac Vice

IT IS SO ORDERED.

Dated: _____

FOR THE DEFENDANT:

s/Steve Strobe
Steve Strobe
Commissioner
Oregon Real Estate Agency

Approved as to form:

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Attorney General

s/Brian Simmonds Marshall
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Hon. Marco A. Hernández
Chief United States District Judge